

REMARKS

Initially, Applicants would like to thank the Examiner for acknowledging consideration of each of the documents listed on the Form PTO-1449 submitted with the Information Disclosure Statement on September 8, 2006. Applicant would also like to thank the Examiner for acknowledging Applicant's claim for foreign priority under 35 U.S.C. §119, as well as receipt of a certified copy of the priority document upon which Applicant's claim for foreign priority is based.

In the outstanding Office Action, claims 1-21 were rejected under 35 U.S.C. §102(b) as being anticipated by HIRAIKE et al. (JP 2003-135583). Applicants traverse the outstanding rejection.

Upon entry of the present amendment, claim 9 will have been cancelled without prejudice to or disclaimer of the subject matter recited therein. Claim 1 will have been amended to include substantially all of the features previously recited in now-cancelled claim 9. Claim 10 will have been amended to depend from claim 1. Claim 21 will have been amended to depend from claim 20 and to remove a feature similar to a feature now recited in amended independent claim 1. Claims 4, 6 and 8 will have been amended to address noted informalities. The herein-contained amendments should not be considered an indication of Applicants' acquiescence as to the propriety of the outstanding rejection. Rather, Applicants have cancelled claim 9 and amended claims 1, 4, 6, 8, 10 and 21 in order to advance prosecution and obtain early allowance of claims in the present application.

HIRAIDE is directed to manufacturing a stable calcium phosphate synthetic resin complex. The Office Action relied upon portions of HIRAIKE in a Representative Drawing and at paragraph [0022] as teaching the combination of features recited in claim 1. In this regard, the

cited portions of HIRAIKE merely indicate a calcium phosphate particle 100 and synthetic resin particles 200(I) and 200(II), as well as that the porosity of the calcium phosphate particle is between 20 and 70%. These particles are components of a “complex” ultimately used in HIRAIKE, and are therefore not comparable to the “pellet” recited in the pending claims. In contrast to the ultimate “complex” in HIRAIKE, amended claim 1 recites, *inter alia*, that a pellet has a roughly polyhedral shape, and that the pellet is defined by a plurality of surfaces including a pair of opposite, non-parallel surfaces, one of the opposite, non-parallel surfaces being inclined at a predetermined angle with respect to the other of the opposite, non-parallel surfaces.

In this regard, the roughly polyhedral shape as well as the plurality of surfaces defining the pellet recited in amended claim 1 advantageously impact a filling ratio of the bone replacement material pellets inside a cavity. Pellets having a roughly polyhedral shape also have chamfered edges pack into a cavity efficiently. Furthermore, pellets of bone replacement material having a pair of opposite, non-parallel surfaces, one of the opposite, non-parallel surfaces being inclined at a predetermined angle with respect to the other of the opposite, non-parallel surfaces, allow for effective delivery of the pellets to the cavity. In this regard, the inclined surface of a pellet according to claim 1 faces the inclined surface of an adjacent pellet and can be pushed through a guide rod or cylindrical member to deliver the pellets of the bone replacement material inside a cavity of a bone defective part.

As explained above, the particles 100, 200(I) and 200(II) are forced into a complex for ultimate use. However, the complex as formed does not disclose a plurality of surfaces including a pair of opposite, non-parallel surfaces, one of the opposite, non-parallel surfaces being inclined at a predetermined angle with respect to the other of the opposite, non-parallel surfaces, as recited in claim 1.

HIRAIDE teaches away from a plurality of surfaces defining a pellet comprising a pair of opposite surfaces, one of the opposite surfaces being inclined at a predetermined angle with respect to the other of the opposite surfaces, as recited in claim 1. The pressurization heating apparatus disclosed by HIRADE heats and pressurizes calcium phosphate particles and synthetic-resin particles into a complex using punches 4a and 4b. Insofar as punches 4a and 4b are shown in Drawings 3 and 4 of HIRADE as being parallel to each other, HIRADE does not teach or suggest a plurality of surfaces defining the complex includes a pair of opposite, non-parallel surfaces, one of the opposite, non-parallel surfaces being inclined at a predetermined angle with respect to the other of the opposite, non-parallel surfaces, as recited in claim 1.

As set forth above, HIRADE does not disclose, suggest or render obvious the combination of features recited in independent claim 1. Accordingly, independent claim 1 is allowable over HIRADE for at least the reasons discussed above.

Claims 2-21 are each allowable at least for depending, directly or indirectly, from an allowable independent claim, as well as for additional reasons related to their own recitations.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

At least in view of the herein contained amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding objection and rejections, together with an indication of the allowability of all pending claims, in due course. Such action is respectfully requested and is believed to be appropriate and proper.

Should an extension of time be necessary to maintain the pendency of this application, including any extensions of time required to place the application in condition for allowance by an Examiner's Amendment, the Commissioner is hereby authorized to charge any additional fee to Deposit Account No. 19-0089.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,

Hiromi MATSUZAKI et al.

Joshua M. Povsner
Reg. #42,086

Bruce H. Bernstein
Bruce H. Bernstein
Reg. No. 29,027

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GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191